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9 Attorneys for Respondent

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 **DAVID LOUIS MAIRS,**

Petitioner,

15 **v.**

16 **ROBERT AYERS, Warden,**

Respondent.

C 08-01886 JF (PR)

**APPLICATION FOR FIRST
ENLARGEMENT OF TIME**

19
20 Pursuant to Civil Local Rules 6-1 and 6-3, Respondent hereby requests an enlargement
21 of time of 21 days to respond to the Order to Show Cause issued in this case. The response is
22 currently due on August 22, 2008.

23 This application is based on the attached declaration of Allan Yannov.

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25 ///

26 ///

1 Dated: August 19, 2008

2 Respectfully submitted,

3 EDMUND G. BROWN JR.
4 Attorney General of the State of California

5 DANE R. GILLETTE
6 Chief Assistant Attorney General

7 GERALD A. ENGLER
8 Senior Assistant Attorney General

9 PEGGY S. RUFFRA
10 Supervising Deputy Attorney General

11 /s/ ALLAN YANNOW
12 Deputy Attorney General
13 Attorneys for Respondent

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13 **DAVID LOUIS MAIRS,**

Petitioner,

15 v.

16 **ROBERT AYERS, Warden,**

Respondent.

C 08-01886 JF (PR)

**DECLARATION OF ALLAN
YANNOV IN SUPPORT OF
MOTION FOR ENLARGEMENT
OF TIME**

19
20 1. I, Allan Yannov, am the California Deputy Attorney General assigned to file the
21 response to the Order to Show Cause in this Case

22 2. This case involves a petition for writ of habeas corpus filed by a state inmate who was
23 convicted of commercial burglary and sentenced to the upper term of eight years (four years doubled
24 as a result of a prior "strike" conviction.) Petitioner contends that the trial court violated his
25 constitutional rights in imposing the upper term.

26 3. The Order to Show Cause was filed on June 23, 2008, and ordered respondent to file
27 a response within 60 days. The response is therefore due on August 22, 2008.
28

1 4. I have requested from storage in Sacramento the file in petitioner's state direct appeal.
2 I have a copy of the file in petitioner's state habeas corpus case but have been informed today that
3 the file in connection with the direct appeal is not in Sacramento and is in San Francisco. I have
4 been unable to locate this file and am requesting the additional time to locate the file so that I can
5 file an answer that is responsive to petitioner's arguments.

6 5. For the reasons stated in paragraph 4, I am requesting an enlargement of time of 21
7 days to September 12, 2008. I have not previously requested an enlargement of time in this matter.

8 6. Since petitioner is proceeding in pro per, a stipulation has not been sought.

9 I declare the above under penalty of perjury.

10 Executed at San Francisco, California on August 19, 2008.

11 Dated: August 19, 2008

12 Respectfully submitted,

13 EDMUND G. BROWN JR.
Attorney General of the State of California

14 DANE R. GILLETTE
Chief Assistant Attorney General

15 GERALD A. ENGLER
Senior Assistant Attorney General

16 PEGGY S. RUFFRA
Supervising Deputy Attorney General

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18
19 /s/ ALLAN YANNOW
20 Deputy Attorney General
21 Attorneys for Respondent

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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION

10 **DAVID LOUIS MAIRS,**

11 Petitioner,

12 v.

13 **ROBERT AYERS, Warden,**

14 Respondent.
15

C 08-01886 JF (PR)

**[PROPOSED] ORDER GRANTING
FIRST ENLARGEMENT OF TIME**

16
17 Good Cause Appearing, It is hereby Ordered that the time for responding to the Order to
18 Show Cause be enlarged to and including September 12, 2008.

19 Dated: _____
20
21

22 _____
Hon. Jeremy Fogel
United States District Judge
23

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **David L. Mairs v. Robert Ayers**

No.: **C 08-01886 JF (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 19, 2008, I served the attached **APPLICATION FOR FIRST ENLARGEMENT OF TIME; DECLARATION OF ALLAN YANNOV; [PROPOSED] ORDER** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

David L. Mairs
T25433
San Quentin State Prison
San Quentin, CA 94974

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 19, 2008, at San Francisco, California.

Carmelita F. Limaco

Declarant

/s/

Signature